

TITLE 28

Labor and Labor Relations

CHAPTER 28-9.7

Correctional Officers Arbitration

SECTION 28-9.7-1

§ 28-9.7-1 Short title. – This chapter may be cited as the "Correctional Officers Arbitration Act."

§ 28-9.7-2 Statement of policy. – (a) The protection of the public health, safety and welfare demands that the full-time correctional officers of the state of Rhode Island not be accorded the right to strike or engage in any work stoppage or slowdown. This necessary prohibition does not, however, require the denial to such state employees of other well recognized rights of labor, such as the right to organize, to be represented by an organization of their choice, and the right to bargain collectively concerning wages, rates of pay, and other terms and conditions of employment.

(b) It is hereby declared to be the public policy of this state to accord to the full-time correctional officers of the state all of the rights of labor other than the right to strike or engage in any work stoppage or slowdown. To provide for the exercise of these rights, a method of arbitration of disputes is hereby established.

(c) The establishment of this method of arbitration shall not, however, in any way whatever, be deemed to be recognized by the state of compulsory arbitration as a superior method of settling labor disputes between employees who possess the right to strike and their employers, but rather shall be deemed to be a recognition solely of the necessity to provide some alternative mode of settling disputes where employees must as a matter of public policy be denied the usual right to strike.

§ 28-9.7-3 Definitions. – As used in this chapter, the following terms shall, unless the context requires a different interpretation have the following meanings:

(1) "State authorities" shall mean the proper officials of the state whose duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of correctional officers;

(2) "Correctional officers" shall mean the full-time correctional officer of the state of Rhode Island.

§ 28-9.7-4 Right to organize and bargain collectively. – The correctional officers shall have the right to bargain collectively with the state of Rhode Island and to be represented by an organization in the collective bargaining as to wages, rates of pay, hours, working conditions, and all other terms and conditions of employment.

§ 28-9.7-5 Recognition of bargaining agent. – The organization selected by the majority of the correctional officers shall be recognized by the state as the sole and exclusive bargaining agent for all of the correctional officers unless and until recognition of the organization is withdrawn by vote of a majority of the correctional officers. The labor organization or state may designate any person or persons to negotiate or bargain on its behalf; provided, however, that the person or persons so designated shall be given authority to enter into and conclude an effective and binding collective bargaining agreement.

§ 28-9.7-6 Obligation to bargain. – It shall be the obligation of the state, acting through state authorities, to meet and confer in good faith with the designated representative or representatives of the bargaining agent, including any legal counsel selected by the bargaining agent, within ten (10) days after receipt of written notice from the bargaining agent of the request for a meeting for collective bargaining purposes. This obligation shall include the duty to cause any agreement resulting from the negotiations to be reduced to a written contract, provided that no contract shall exceed the term of three (3) years.

§ 28-9.7-7 Unresolved issues submitted to arbitration. – In the event that the bargaining agent and the state authorities are unable within thirty (30) days from and including the date of their first meeting to reach an agreement on a contract, any and all unresolved issues shall be submitted to arbitration.

§ 28-9.7-8 Arbitration board – Composition. – Within five (5) days from the expiration of the thirty (30) day period referred to in § 28-9.7-7, unless the parties mutually agree to extend the time to select their arbitrator, the bargaining agent and the state authorities shall each select and name one arbitrator and shall immediately thereafter notify each other in writing of the name and address of the person so selected. The two (2) arbitrators so selected and named shall, within ten (10) days from and after the expiration of the five (5) day period above agree upon and select and name a third arbitrator. If, on the expiration of the period allowed therefore, the arbitrators are unable to agree upon the selection of a third arbitrator, the chief justice of the Rhode Island supreme court shall select a resident of Rhode Island or a person whose place of business or principal place of employment is in Rhode Island as the third arbitrator upon request in writing from either the bargaining agent or the state authorities. The third arbitrator, whether selected as a result of agreement between the two (2) arbitrators previously selected or selected by the chief justice, shall act as chair of the arbitration board.

§ 28-9.7-9 Hearings. – (a) The arbitration board shall, acting through its chair, call a hearing to be held within ten (10) days after the date of appointment of the chairperson, and shall, acting through its chairperson, give at least seven (7) days' notice in writing to each of the other two (2) arbitrators, the bargaining agent, and the state authorities of the time and place of the hearing. The hearing shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the arbitrators may be received in evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance

and testimony of witnesses, the production of books, records, and other evidence relative or pertinent to the issues presented to them for determination.

(b) The hearing conducted by the arbitrators shall be concluded within twenty (20) days of the time of commencement, and within ten (10) days after the conclusion of the hearings, the arbitrators shall make written findings and a written opinion upon the issues presented, a copy of which shall be mailed or otherwise delivered to the bargaining agent or its attorney or otherwise delegated representative and to the state authorities. A majority decision of the arbitrators shall be binding upon both the bargaining agent and the state authorities.

§ 28-9.7-10 Factors to be considered by arbitration board. – The arbitrators shall conduct the hearings and render their decision upon the basis of a prompt, peaceful, and just settlement of wage or hour disputes between the correctional officers and the state. The factors among others to be given weight by the arbitrators in arriving at a decision shall include:

(1) Comparison of wage rates or hourly conditions of employment of the correctional officers with prevailing wage rates or hourly conditions of employment of skilled employees of the building trades and industry in the state;

(2) Comparison of wage rates or hourly conditions of employment of the correctional officers with wage rates or hourly conditions of employment of correctional officers in other states;

(3) Interest and welfare of the public;

(4) Comparison of peculiarities of employment in regard to other trades or professions, specifically:

(i) Hazards of employment;

(ii) Physical qualifications;

(iii) Educational qualifications;

(iv) Mental qualifications;

(v) Job training and skills.

(5) Consideration of state's ability to pay.

§ 28-9.7-11 Fees and expenses of arbitration. – Fees and necessary expenses of arbitration shall be borne equally by the bargaining agent and the state. Notwithstanding any other remedies which a court-appointed arbitrator appointed by the chief justice pursuant to § 28-9.7-8 may have the arbitrator or a party who has paid its share of the fees and necessary expenses of a court-appointed arbitrator may petition the superior court for sanctions against the party failing to make timely payment of its share of such arbitrator's fees and expenses and the superior court is authorized to enforce the sanctions against the nonpaying party, including, but not limited to, contempt powers pursuant to § 8-6-1.

§ 28-9.7-12 Collective bargaining contract. – Any agreements actually negotiated between the bargaining agent and the state authorities either before or within thirty (30) days after arbitration shall constitute the collective bargaining contract governing correctional officers and the state for the period stated therein, provided that the period shall not exceed three (3) years. Any collective bargaining agreement negotiated under the terms and provisions of this chapter shall specifically provide that the correctional officers who are subject to its terms shall have no right to engage in any work stoppage, slowdown or strike, the consideration for the provision being the right to a resolution of disputed questions.

§ 28-9.7-13 Request for collective bargaining. – Whenever wages, rates of pay, or any other matter requiring appropriation of money by the state are included as a matter of collective bargaining conducted under the provisions of this chapter, it is the obligation of the bargaining agent to serve written notice of request for collective bargaining on the state authorities at least one hundred twenty (120) days before the last day on which money can be appropriated by the state to cover the contract period which is the subject of the collective bargaining procedure.

§ 28-9.7-14 Writ of certiorari to the supreme court. – The sole avenue of review of a decision of an arbitration panel issued pursuant to this chapter shall be by petition for writ of certiorari to the supreme court. In the event a decision of the arbitration panel is sought to be reviewed by writ of certiorari to the supreme court, then the matter shall be given priority by the supreme court.

§ 28-9.7-15 Attorneys' fees, costs, and interest. – In the event either the bargaining agent or the state authorities shall file a petition for writ of certiorari to the supreme court of the state of Rhode Island for a review or modification of a majority decision of the arbitrators, which by the provisions of § 28-9.7-9 is binding upon both the bargaining agent and the state authorities, the party against whom the decision of the supreme court shall be adverse, if the supreme court finds the appeal or petition to be frivolous shall pay reasonable attorneys' fees and costs to the successful party as determined by the supreme court and the supreme court shall in its final decision affirm and award the costs and reasonable attorneys' fees; and if the final decision affirms the award of money, the award, if retroactive, shall bear interest at the rate of eight percent (8%) per annum from the effective retroactive date.

§ 28-9.7-16 Severability. – If any provision of this chapter, or application thereof to any person or circumstances, is held unconstitutional or otherwise invalid, the remaining provisions of this chapter and the application of the provisions to other persons or circumstances, other than those to which it is held invalid, shall not be affected thereby.

§ 28-9.7-17 Affirmative action provisions. – The state authorities, as defined herein, shall include proposals for affirmative action provisions as a subject for all collective bargaining negotiations. The proposals shall include, at a minimum, but not limited to, the following personnel actions, recruitment, new hires,

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promotions, transfers, terminations, training and education, layoffs and return from layoff.